IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE TWENTY FOURTH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE DR JUSTICE G.YETHIRAJULU

WRIT PETITION NO : 13656 of 2004

Between:

Medishetty Prasad, S/o. Venkataiah, Aged about 36 years,

Occu: Ex-Watchman, R/o 19-9-518,

Shambunipet, Warangal.

..... PETITIONER

AND

1.The Industrial Tribunal-cum-Labour Court, Warangal,

rep., by its Presiding Officer.
2.The Executive Engineer, TLC, AP TRANSCO, Mulugu Road,
Hanamkonda, Warangal District.
3.The Superintending Engineer, TLC (Lower Line Control),

AP TRANSCO, Mulugu Road, Hanamkonda, Warangal District.
4.The Chief Engineer, TL & SS, AP TRANSCO, Mulugu Road,
Hanamkonda, Warangal District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to call for the records from the 1st respondent in I.A.No.21 of 2004 and M.P.No.75 of 2003 and issue an appropriate writ, order or direction, particularly one in the nature of writ of Certiorari, and quash the order dated 24.6.2004 passed by the 1st respondent in I.A.No.21 of 2004 as well as M.P. No.75 of 2003, holding the same as illegal, unjust, contrary to law and perverse, and grant all consequential benefits.

Counsel for the Petitioner: MR.A.K.JAYAPRAKASH RAO

Counsel for the Respondent No.1: GP FOR LABOUR

Counsel for the Respondent Nos.2 to 4: Mr.S.Ravindranath

The Court at the stage of admission made the following :

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THE HONOURABLE DR.JUSTICE G.YETHIRAJULU

WRIT PETITION No.13656 OF 2004

ORDER:

The petitioner claims that he worked under the respondents as a Watchman from 01.03.2002 to 31.07.2003. He contends that it is an appointment by oral orders. Therefore, he could not produce any appointment order in the Miscellaneous Petition No.75 of 2003 on the file of the Industrial Tribunal-cum-Labour Court, at Warangal, in proof of his employment. The petitioner further contends that the records of the respondents disclose that he worked as a Watchman during that period. Therefore, he filed I.A.No.21 of 2004 in M.P.No.75 of 2003, requesting the Industrial Tribunal to call for the records of the respondents to make out a prima-facie case that he worked under the respondents.

2. The grievance of the petitioner is that the Industrial Tribunal while passing orders in I.A.No.21/2004 also passed orders in the main petition covered by M.P.No.75 of 2003, dismissing the same in view of the orders passed in I.A.No.21/2004. The petitioner, therefore, approached this Court through this writ petition, seeking to declare that the orders of the Industrial Tribunal, Warangal are illegal, arbitrary and requested to set aside the same.

3. If the Tribunal is prima-facie not satisfied about the workman and employer relationship between the petitioner and respondents, it may make an enquiry to a limited extent to find out whether there is workman and employer relationship between the petitioner and respondent. The Tribunal is not supposed to dismiss the application on the ground that the employer denied the relationship. The Industrial

Tribunal ought to have given an opportunity to the petitioner to make out a case that there is workman and employer relationship between him and the respondents, by calling for the records of the employer for the purpose of verification. Though there is no dispute regarding the legal position that if there is no relationship of workman and employer between the petitioner and respondents, the application under Section 33 [C] (ii) cannot be maintained. An opportunity ought to have been given to the petitioner by way of summoning the records to enable him to show that there was workman and employer relationship between the petitioner and respondents. The Industrial Tribunal ought to have passed the orders keeping in view the object of Industrial Disputes Act, 1947, instead of standing on technicalities. If the petitioner fails to establish his relationship with the respondents, after verification of the record also, the Tribunal is justified in passing appropriate order, regarding the maintainability of the application under Section 33 [C] (ii) of the Industrial Disputes Act, 1947.

4. In the light of the above circumstances, the orders of the Industrial Tribunal, at Warangal dated 24.06.2004 passed in I.A.No.21 of 2004 and in Miscellaneous Petition No.75 of 2003 are set aside. The Tribunal shall restore the Miscellaneous Petition to its original number and shall also direct the respondents to cause production of the relevant records to verify whether the petitioner worked under the respondents during the relevant period as a Watchman and permit the petitioner to adduce necessary evidence for the said purpose and pass appropriate orders regarding the relationship of the petitioner and the respondents as workman and employer.

5. The Writ Petition is accordingly allowed. No order as to costs.

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Dr.G.YETHIRAJULU, J

Date:24th September, 2004.

Cs

ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To

1. The Presiding Officer, Industrial Tribunal-cum-Labour Court, Warangal.
2. The Executive Engineer, T.L.C, AP TRANSCO, Mulugu Road, Hanamkonda, Warangal District.
3. The Superintending engineer, TLC (Lower Line Control), A.P. TRANSCO, Mulugu Road, Hanamkonda, Warangal District.
4. The Chief Engineer, TL & SS, A.P. TRANSCO, Mulugu Road, Hanumkonda, Warangal District.
5. Two C.Cs. to the Government Pleader for Labour, High Court Buildings, Hyderabad. (O.U.T.)
6. Two C.D. copies.